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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/981,133	10/15/2001	Anthony J. Baerlocher	0112300-466	6227

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EXAMINER

MENDOZA, ROBERT J

ART UNIT PAPER NUMBER

3713

DATE MAILED: 12/02/2003

7

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/981,133

Applicant(s)

BAERLOCHER ET AL.

Examiner

Robert J Mendoza

Art Unit

3713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 September 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

Art Unit: 3713

**DETAILED ACTION**

**Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Graham (USPN 6,491,584) in view of Demar et al. (USPN 6,203,429).**

Regarding claims 1, 4-11, 13-19, 21, 22 and 24-26, Graham, in col. 1:29-45 and col. 2:55-59, discloses a gaming device comprising a processor, a display device controlled by the processor, a primary game controlled by the processor, a secondary game controlled by the processor, a secondary game triggering event in the primary game which triggers the secondary game, and at least one re-trigger of the entire secondary game, at least one additional spin in the secondary game or at least one additional turn in the secondary game provided to the player in the secondary game upon the display of one of the secondary game triggering symbols. Graham, in col 1:66-67, col. 2:1-4 and col. 3:5-22, discloses the secondary game triggering event in the secondary game and the secondary game triggering event in the primary game employ a plurality of the same triggering symbols, wherein the secondary game triggering event includes at least one combination of a plurality of triggering symbols and the secondary game re-triggering event includes at least one of the triggering symbols and less than the plurality of triggering symbols of the combination. Graham, in col. 1:35-45, discloses the bonus trigger is selected from the group consisting of at least one additional turn in the bonus game. Graham, in col. 1:54-67, col. 2:1-4

Art Unit: 3713

and col. 3:3-44, discloses the bonus re-triggering symbol activates a bonus re-triggering symbol in the bonus game, the processor provides an additional bonus re-trigger to the player.

However, Graham lacks in disclosing the secondary re-triggering event in the secondary game is more likely to occur in the secondary game than in the primary game, the secondary game re-triggering event in the secondary game and the secondary game triggering event in the primary game employ at least one of the same triggering symbols. Demar, in an analogous invention, teaches, in col. 4:11-23:39-42:58-67, col. 5:1-3:40-42 and col. 6:27-29, increasing a game player's chances of receiving a winning outcome in the bonus game than in the primary game while using the some of the same symbols. It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Demar into the disclosed invention of Graham. One would be motivated to combine the teaching of Demar into the disclosed invention of Graham in order to, improve the diversity of the bonus game and increase the excitement level offered by the gaming machine.

#### **Response to Arguments**

Applicant's arguments filed 09/12/03 have been fully considered but they are not persuasive. The Applicant argues that the **combination of Graham and Demar does not teach the claimed invention**. The Examiner respectfully disagrees. Graham clearly discloses a gaming machine with a triggering event in the primary game, which gives a game player a series of free games (i.e. turns or spins). If another triggering arises during the first series of free games, the player receives another series of free game with a bonus feature (col. 1:46-62). Demar, in an analogous invention, is being utilized to teach having increasing the probability of obtaining a winning outcome in a secondary game. It is not required for Demar to disclose all the other

Art Unit: 3713

elements in the claims for Demar to be combined with Graham or vice versa ( refer to MPEP 2141). Therefore, there is reason to combine Graham with Demar.

**Conclusion**

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents are cited to further show the state of the art with respect to game controllers:

USPN 6,540,614 Nishino et al. discloses game controllers

Any inquiry concerning this communication or earlier communications from the examiner should be directed to R. Mendoza whose telephone number is (703) 305-7345. The examiner can normally be reached on Monday-Friday from 8:00am to 5:00pm.


Art Unit: 3713

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teresa Walberg, can be reached at (703) 308-1327. The USPTO official fax number is (703) 872-9306.

RM

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November 27, 2003

  
Teresa Walberg  
Supervisory Patent Examiner  
Group 3700